

REMARKS

This reply is responsive to the Office Action mailed on March 2, 2005. A request for a one-month extension of time is included with this response. Claims 1-21 are pending in the application. Reconsideration in light of the following remarks is respectfully requested.

I. Rejection under 35 U.S.C. § 103**A. Claims 1-4 and 15-17**

Claims 1-4 and 15-17 stand rejected under U.S.C. § 103 as being obvious over Bimonte et al. (U.S. Patent No. 4,577,066, issued March 18, 1986) (Bimonte) in view of Forte-McRobbie et al. (U.S. Patent Publication No. 2005/0021798, published January 27, 2005) (Forte-McRobbie). Applicant respectfully disagrees.

Bimonte discloses schemes for selecting an interexchange telephone call carrier, selecting a route to the selected carrier, and establishing a call path on the selected route to the selected carrier in a multicarrier environment. To select a call route from a local telephone company switching office to a carrier switching office, first a route identifier is generated which comprises a set of keys to a data base for identifying therein a default route to the selected carrier. Then alternative sets of keys are obtained from data base by translating the class of service characteristics of the call and the called number. The set of keys identifying the default route is modified with those keys of the alternative key sets that are defined, to obtain alternative route identifiers, and the keys of the various route identifiers are modified by the carrier identification code. Route identifiers are then

sequentially selected from the alternative and default route identifiers to obtain one route identifier that identifies in the data base a descriptor of a route that is defined. The defined route is then established, if possible.

Forte-McRobbie discloses a Voice over Internet Protocol (VoIP) hybrid digital loop carrier (DLC). Specifically, Forte-McRobbie discloses a method of use comprising converting between IP packets and pulse code modulation (PCM) robbed bit signaling via a VoIP channelized router, providing the PCM robbed bit signaling to a time division multiplexed (TDM) switch, and/or converting between IP packets and GR303 call reference values via the VoIP channelized router.

The Examiner's attention is directed to the fact that Bimonte and Forte-McRobbie fail to disclose "sending a message to the telephony device indicating that the Internet Protocol telephone line is out-of-service", as recited in Applicant's independent claim 1. Independent claim 16 recites similar limitations (i.e., generating a message to be output to the telephony device indicating that the Internet Protocol telephone line is out-of-service). Specifically, claims 1 and 16 recite:

1. A method for operating a telephony device comprising:
detecting a hook status of the telephony device coupled to an out-of-service Internet Protocol telephone line; and
sending a message to the telephony device indicating that the Internet Protocol telephone line is out-of-service. (emphasis added)

16. An apparatus comprising:
an Internet Protocol interface coupled to an Internet Protocol telephone line, which is provisioned as out-of-service;
a telephone port to couple to a telephony device; and
a processor detecting a hook status of the telephony device coupled to the telephone port and generating a message to be output to the telephony device indicating that the Internet Protocol telephone line is out-of-service. (emphasis added)

The present invention discloses providing an out-of-service message to a potential customer when attempting to access an out-of-service IP telephony line using an IP Telephony device or other telephony device. The out-of-service message provided by the present invention provides a distinction between a broken IP telephone line, which will be completely dead, and an out-of-service line.

In contrast, the telephone line of Bimonte is not, in fact, out of service. Bimonte requires that a subscriber using a calling terminal link attempt to make a call. Once the call is initiated, a check is performed to see if the calling terminal is classified as a deadbeat. If the calling terminal link is classified as a deadbeat, steps are taken to block the call, for example, by arranging to return a message to the caller that his interexchange calls cannot be completed because of nonpayment of interexchange call bills. (see Bimonte; col. 20, lines 11-31) Bimonte only teaches the blocking of telephone calls from an in-service line that is classified as a deadbeat. Thus, Bimonte clearly fails to teach "sending a message to the telephony device indicating that the Internet Protocol telephone line is out-of-service" as recited by Applicant's claim 1 and "generating a message to be output to the telephony device indicating that the Internet Protocol telephone line is out-of-service" as recited by Applicant's claim 16.

The Examiner concedes that Bimonte fails to teach detecting a hook status of the telephony device coupled to an out-of-service Internet Protocol telephone line and cites Forte-McRobbie to cure the Examiner's perceived deficiency. The Applicant respectfully submits that Forte-McRobbie fails to teach "detecting a hook status of the telephony device coupled to an out-of-service Internet Protocol telephone line." However, even if Forte-McRobbie is properly construed by the Examiner to teach the

detecting of a hook status of the telephony device coupled to an out-of-service Internet Protocol telephone line, Forte-McRobbie still fails to cure the deficiencies of Bimonte as argued above.

In view of the foregoing, Applicant submits that independent claims 1 and 16 are patentable over Bimonte in view of Forte-McRobbie. As such, claims 2-4, 15, and 17 are patentable at least by virtue of depending from their respective base claim. Applicant respectfully requests withdrawal of the rejection.

B. Claims 5-14 and 18-20

Claims 5-14 and 18-20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bimonte and Forte-McRobbie in view of Starr et al. (U.S. Patent No. 5,535,264, issued July 9, 1996) (Starr). Applicant respectfully disagrees.

The Examiner concedes that Bimonte and Forte-McRobbie fail to disclose detecting Dual Tone Multiple Frequency tones on the out-of-service Internet Protocol telephone line. In addition, the Examiner also concedes that Bimonte and Forte-McRobbie fail to disclose applying a loop current to the telephone line. In order to cure the Examiner's perceived deficiency of Bimonte and Forte-McRobbie, the Examiner cites Starr.

Starr discloses a voice messaging service system for caller accepted voice store and forward service. The service offering prompt is issued during dial tone in response to caller off-hook, advising that the service can be accepted by the caller if the call to the intended recipient is not completed. Alternatively, the service offering prompt is delayed after caller off-hook for a time interval sufficient for the caller to dial the telephone

number of the intended recipient. As a further embodiment, the service is offered for acceptance by the caller without advancing the call to the intended recipient. (Starr, Abstract)

As argued above in Section I. A., Bimonte and Forte-McRobbie fail to teach, disclose, or suggest "sending a message to the telephony device indicating that the Internet Protocol telephone line is out-of-service" as recited by Applicant's claim 1 and "generating a message to be output to the telephony device indicating that the Internet Protocol telephone line is out-of-service" as recited by Applicant's claim 16. Starr fails to cure the deficiencies of Bimonte and Forte-McRobbie as noted in Section I. A. As such, Applicants submit that claims 5-14 and 18-20 are patentable at least by virtue of depending from their respective base claim. Therefore, Applicants respectfully request withdrawal of the rejection.

C. Claim 21

Claim 21 stands rejected under U.S.C. § 103 as being obvious over Zhou (U.S. Patent No. 6,178,241, issued January 23, 2001) (Zhou). Applicant respectfully disagrees. Zhou discloses a line card that integrates subscriber line interface circuitry, A/D and D/A converters, and digital signal processing technology. The digital signal processing technology performs many line card tasks such as switch hook detection, ground key detection, DC feed control, polarity reversal, ringing tests, fault detection, power cross detection, and ring trip detection. Actual subscriber loop parametric conditions may be determined by a digital signal processor using sensed small signals on both the A and B conductors of subscriber loop.

The Examiner concedes that Zhou does not suggest a polling timer initiated upon removal of the loop current from the telecommunications line, and upon expiration of the off-hook polling timer the loop current controller applying the loop current to the telecommunications line. However, in providing a rejection the Examiner states that the missing elements are well known.

Applicant asserts that the Examiner has failed to establish a prima facie case of obviousness. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Examiner has provided no evidence of a suggestion or motivation in Zhou to modify Zhou in the manner suggested by the Examiner. Instead, the Examiner cites that the missing elements are "well known", without providing supporting evidence that the elements in question are, in fact, well known. Since there is no suggestion or motivation provided by Zhou, there is, by definition, no reasonable expectation of success. In addition, Zhou, as conceded by the Examiner does not teach or suggest all the claim limitations. As such, a prima facie case of obviousness has not been established by the Examiner with respect to claim 21. In view of the foregoing, Applicant submits that

claim 21 is patentable over Zhou. Therefore, Applicants respectfully request withdrawal of the rejection of claim 21.

Conclusion

Having fully responded to the Office action, the application is believed to be in condition for allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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